

§4.115

the interest of convenience, prior arrangements for inspection of the file should be made with the Recorder of the Board. Copies of material in the record may be furnished to appellant as provided in part 2 of this subtitle.

§4.115 Discovery—depositions.

(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When depositions permitted.* After an appeal has been docketed, the parties may mutually agree to, or the Board may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for such an order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions shall be, as mutually agreed by the parties, or, failing such agreement, governed by order of the Board.

(d) *Use as evidence.* No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the depositions may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may in its discretion receive depositions as evidence in supplementation of that record.

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(e) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

§4.116 Interrogatories to parties; inspection of documents; admission of facts.

Under appropriate circumstances, but not as a matter of course, the Board will entertain applications for permission to serve written interrogatories upon the opposing party, applications for an order to produce and permit the inspection of designated documents, and applications for permission to serve upon the opposing party a request for the admission of specified facts. Such applications shall be reviewed and approved only to the extent and upon such terms as the Board in its discretion considers to be consistent with the objective of securing just and inexpensive determination of appeals without unnecessary delay, and essential to the proper pursuit of that objective in the particular case.

§4.117 Service of papers.

A copy of all pleadings, briefs, motions, letters, or other papers filed with the Board, shall be served upon the other party at the time of filing. Service of papers may be made personally or by mailing in a sealed envelope addressed to the other party. Any paper filed with the Board shall show on its face, or in the letter transmitting the same, that a copy thereof has been served upon the other party. When the other party is represented by counsel, such service shall be made upon him, and service upon counsel shall be deemed to be service upon the party he represents.

HEARING PROCEDURE RULES

§4.118 Hearings—where and when held.

Hearings may be held in Arlington, Virginia, or upon timely request and for good cause shown, the Board may in its discretion set the hearing on an appeal at a location other than Arlington, Virginia. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. However, where it is apparent that no